

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, SEPTEMBER 19, 2011

PORTSMOUTH, NH
TIME: 7:00 PM [or thereafter]

I. CALL TO ORDER

Mayor Ferrini called the meeting to order at 7:00 p.m.

II. ROLL CALL

Present: Mayor Ferrini, Assistant Mayor Novelline Clayburgh, Councilors Lister, Hejtmanek, Spear, Dwyer, Coviello, Kennedy and Smith

III. INVOCATION

Mayor Ferrini asked everyone to join in a moment of silent prayer.

IV. PLEDGE OF ALLEGIANCE

Councilor Dwyer led the Pledge of Allegiance.

V. ACCEPTANCE OF MINUTES – SEPTEMBER 6, 2011

Councilor Smith moved to approve and accept the minutes of the September 6, 2011 City Council meeting. Seconded by Councilor Kennedy.

Councilor Coviello requested to amend page 2 third paragraph to read as follows: *Councilor Coviello stated that a person made a significant donation for the purchase of the artwork.*

The City Council agreed to the change and the main motion passed.

VI. PUBLIC COMMENT SESSION

Rebecca Emerson spoke opposed to the rezoning request for property located off Bartlett Street/Cate Street. She requested that first reading not move forward without a comprehensive traffic study. She addressed the traffic issues and the danger that exists and the addition of 41 residents will increase the traffic congestion.

Martin Cameron spoke opposed to the proposed police contract for the patrolman's Union, NEPBA Local #11. He said the extras contained in the contract should be eliminated.

Norm Olsen thanked Police Chief Ferland for the job the police department and the officers do for the community. He expressed concern with the increased costs with the contract and said the costs are unsustainable. Mr. Olsen urged the City Council to reduce the spending and oppose the contract as presented.

Tim Myles asked the City Council to oppose the contract as presented. He spoke to the majority of the various City budgets being made up of salaries and benefits. He said it is not the unions fault or the police officers for the contract, they are only trying to get what they feel is appropriate for them. Mr. Myles said the City Council is elected to represent the residents and if the contract is approved it would not be in the best interest of the residents.

Rick Horowitz addressed various aspects of the contract and urged the City Council to opposed it as presented. He provided the City Council with a cost analysis for retirement plans for officers between the ages of 45 to 65.

Jeff Purtell spoke to the issue of compounding salaries and benefits and how it has resulted in the inability for taxpayers to pay. He said the increase in costs have reached a critical point. Mr. Purtell said that this is a financial issue and not the competence or value of the public employees.

Erik Crago spoke to union negotiations and expressed concern with the union not changing their insurance benefits as the PMA and Non-Union employees have. He said it is more difficult to get people to agree with an item once a contract is signed and in place. He feels the contract should be changed to incorporate the new health insurance before it is signed.

Jennifer Hawkins spoke to the need for the senior van through Wentworth Connection to remain and reducing the schedule to 3 days a week. She said it will affect a great deal of people and their ability to be independent will be compromised. Ms. Hawkins addressed the major upheaval in the way of scheduling rides and appointments for clients and their providers if the van only operates 3 days a week.

Peter Somssich expressed support for the police contract and although he may not support every element in the contract, most of the contract has to do with retroactive pay and State mandates for retirement funding. He said the officers are not receiving a wind fall with this contract and the residents want to keep the current services we receive.

David Kish spoke opposed to the contract and addressed the guaranteed raises that are referred to as step increases. He said in addition to step increases the contract entitles officers to cost of living allowances. He urged the City Council to oppose the contract as presented.

Councilor Smith moved to suspend the rules in order to take up Item XI. A.2. – Proposed Agreement Re: Senior Transportation. Seconded by Councilor Lister and voted.

XI. A.2. – Proposed Agreement Re: Senior Transportation

Deputy City Manager Hayden said the City Council has been provided the agreement and summary of the presentation provided at the September 12th Work Session.

Councilor Spear moved to authorize the City Manager to enter into an Agreement between the Mark Wentworth Home d/b/a/ Wentworth Connections and the City of Portsmouth from July 1, 2011 through June 30, 2012. Seconded by Councilor Smith.

Councilor Spear said this budget cycle the Council anticipated an additional \$300,000.00 in parking revenues and this funding will come from that revenue. He said we need to use more of the parking revenues to subsidize our public transportation.

Councilor Smith said he will support this because it is coming from the parking revenues.

Councilor Kennedy thanked Ms. Hawkins for her remarks at the public comment session.

Councilor Dwyer said that she supports the motion but indicated the importance of knowing the impact of services by going to 3 days per week. She said that the City Council should receive a report back from the Mark Wentworth Home on how the 3 days per week went.

Deputy City Manager Hayden said that the Mark Wentworth Home will report every month on how the services are going.

Councilor Lister said he would support the request and if there are outlying areas that need to be addressed, that it is done.

Assistant Mayor Novelline Clayburgh said she will vote in favor of the funding request and spoke to the importance of supporting our seniors.

Motion passed.

Assistant Mayor Novelline Clayburgh moved to suspend the rules in order to take up Item XI. A.1. - Proposed Agreement between the Police Commission and the Portsmouth Police Patrolman's Union, NEPBA Local #11. Seconded by Councilor Lister and voted.

XI. A.1. - Proposed Agreement between the Police Commission and the Portsmouth Police Patrolman's Union, NEPBA Local #11

Councilor Smith moved to accept the contract as presented. Seconded by Councilor Lister.

Councilor Spear said that this contract is similar to the ranking officer's contract and he voted against that contract and will also vote against this contract for the same reasons. He stated that the costs are an issue and we need to have reasonable budget increases.

Councilor Lister thanked the residents for speaking on this matter. He spoke with the Police Chief and has listened to the residents and they are being heard. He discussed the value this contract brings for the City. Councilor Lister stated that only a handful of people attended the informational session on the contract held by the Police Department and no matter what contract is presented not everyone will agree with it. He spoke to the services the Police Department provide to the community and expressed his concern with increased costs and said everyone needs to get involved with our level of public services for the future.

Councilor Kennedy said she agrees with many items addressed by Councilor Lister but she is concerned with the cost of living. She indicated that this is the hardest decision she has had to

make and people have been getting information that has not been accurate. She stated that she requested information as to the salary for a new police officer which was reported to her to be \$41,000.00. She also reported that a single police officer in 2014 will make \$48,000.00 and that is a great deal of money that needs to be justified. Councilor Kennedy also indicated that the Council has not received the Police Department Study.

Councilor Dwyer said she will support the contract and that all the speakers made good points. She stated that the retirement issue is based on the State Legislature. She indicated that she would like to see School Care as part of the contract for the health insurance. Councilor Dwyer said she would have liked the City Council to have a more direct role in the contracts. She addressed the many tradeoffs contained in the contract. In addition, she reported that we are no longer competitive with other communities, we are now at the medium and without the contract we are lower than that.

Councilor Hejtmanek said he is trying to keep costs at a modest level but the contract costs are substantial. He addressed fixed costs in the contract and said he appreciates what the Police Department does for all of us. He said if we approve this contract we will need to lay off police officers and he will vote against the contract as presented.

Councilor Coviello said it does not matter where the costs are coming from; there is an increase in costs. He said he is an analytical person and unless we are willing to raise taxes we will need to lay off staff. Councilor Coviello also stated that the contract is unsustainable and this is a mathematical issue. He discussed the possibility of new officers agreeing to form a 401-3 plan. He stated that he would vote opposed to the contract.

Assistant Mayor Novelline Clayburgh thanked the Police Commission, Police Chief Ferland and Tim Black of the Union for meeting with her. She stated that income has dropped over the last 3 years and feels that it is getting worse. She said it is difficult and families need to make adjustments. She indicated that the City cannot afford a contract like this at this time. She said we can't afford these increases in costs. Assistant Mayor Novelline Clayburgh also indicated that the percentage increase is too high and we need drastic reform for all new hires and that is the only way we will solve these problems in the future. She said that the City Council needs to come together on this matter.

Councilor Smith said when we start negotiations the City Council sets guidelines. He said the issue of School Care for the health insurance option came out long after the negotiations on this contract. He would like to have a Health Insurance Committee or self supportive health care which would be a significant savings to the City. He said the push downs in Concord have drastically affected our budget and they need to be held accountable. Councilor Smith stated that is it not the unions fault, it is States fault that this has happened. He also addressed the large liability with the flagger issue. In addition, he stated that this contract has come back to the City Council 5 times. In closing, he requested that a health insurance committee be formed as soon as possible to have things in place in the next 18 months.

Councilor Dwyer said getting rid of the flagger liability costs dwarfs the costs in the contract. She said approving the contract is fiscally responsible and the Council needs to take that into account.

Councilor Coviello said that is assuming the worse case scenario. He said we have not gone to court on that issue, only mediation has occurred.

Councilor Hejtmanek said the flagger issue is a one time event, the contract compounds over time.

Mayor Ferrini passed the gavel to Assistant Mayor Novelline Clayburgh.

Mayor Ferrini said he will support the contract as presented. He said the contracts are unsustainable but locally we have a City to run and it is in the best interest to have a workforce that knows what its daily income will be. He stated under NH law if a contract is not approved the employee's still get significant benefits that currently exist in the contract. Mayor Ferrini said that with the contract, officers will be laid off and they understand that and the Council needs to get this off the table to get reform in the future. In closing, he stated that reform in the future will require legislative changes.

Assistant Mayor Novelline Clayburgh returned the gavel to Mayor Ferrini.

On a roll call 4-5, motion to accept the contract as presented ***failed*** to pass. Councilors Hejtmanek, Spear, Coviello, Kennedy and Assistant Mayor Novelline Clayburgh voted opposed. Councilors Lister, Dwyer, Smith and Mayor Ferrini voted in favor.

At 8:30 p.m., Mayor Ferrini declared a brief recess. At 8:40 p.m., Mayor Ferrini called the meeting back to order.

VII. APPROVAL OF GRANTS/DONATIONS

A. Grant Application for African Burying Ground

Councilor Smith moved to authorize the City Manager to apply for, accept and expend a grant of up to \$5,000.00 from the Rosamond Thaxter Foundation for the construction of the African Burying Ground Memorial Park – We Stand in Honor of Those Forgotten. Seconded by Councilor Kennedy and voted.

- B. Acceptance of Donation to the Coalition Legal Fund
- Town of Tuftonboro- \$5,000.00

Councilor Smith moved to approve and accept the donation, as listed, to be placed in the Coalition Legal Fund. Seconded by Assistant Mayor Novelline Clayburgh and voted.

VI. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First reading of Ordinance Amending Chapter 10, Article 4, Section 10.421.10 – District Location and Boundaries of the zoning ordinance of the City of Portsmouth and the City of Portsmouth Zoning Map be amended by rezoning the property located off Bartlett Street/Cate Street at Assessors Map 165, Lot 1 from Industrial (I) to Business (B) District

Councilor Smith moved to pass first reading and schedule a public hearing and second reading on the proposed Ordinance, as presented at the October 3, 2011 City Council meeting. Seconded by Councilor Lister.

Councilor Coviello stated that he would abstain from voting on this matter.

Mayor Ferrini said this would only go forward for a public hearing and second reading to allow for public input.

Assistant Mayor Novelline Clayburgh asked if the Council should send this matter to the Traffic & Safety Committee for report back.

Deputy City Manager Hayden said we do not control the area from Cate Street to the Route 1 Bypass. She stated that this is a rezoning request and assuming a plan comes forward it would go to Site Review and traffic is a separate issue.

Councilor Lister said he would vote to move it forward to address all of the concerns expressed by Ms. Emerson and those that may speak on the issue at the public hearing.

Councilor Kennedy said she is concerned with the traffic congestion and that the traffic patterns need to be looked at as a whole. She said we need to look at the big picture. She stated that she would not vote in favor without a plan in place.

Councilor Dwyer said because of Councilor Kennedy's comments the Council should have a presentation on the zoning change. She said a traffic study was done of the area and should be part of the presentation.

Councilor Smith said he would support the motion. He said first reading allows for the next step to have a public hearing for comments from the residents. He said he would agree to have Traffic & Safety look at this matter.

Mayor Ferrini said the public hearing and second reading is one of the tools in the tool box.

Motion passed. Councilor Kennedy voted opposed and Councilor Coviello abstained from voting on this matter.

IX. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. Request for a License from Philip McLaughlin, owner of McLaughlin Law Offices for property located at 75 Court Street to install a projecting sign on an existing bracket (***Anticipated action – move to accept the recommendation of the Planning Director with the aforementioned stipulations and approve the request of Philip McLaughlin, owner of McLaughlin Law Offices to install a projecting sign on an existing bracket and, further, authorize the City Manager to execute a License Agreement for this request***)

Planning Director's Stipulations:

- ***The license shall be approved by the Legal Department as to content and form; and***
 - ***Any removal or relocation of the projecting sign, for any reason, shall be done at no cost to the City; and***
 - ***Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the projecting sign, for any reason, shall be restored at no cost to the City and shall be subject to review and acceptance by the Department of Public Works***
- B. Letter from Peter Somssich, Parade Coordinator, advising the City Council that the September 25, 2011 Portsmouth Peace Treaty parade has been canceled and they would instead like to request permission to hold a Concert & Rally to Celebrate Labor Day and the Portsmouth Peace Treaty in Market Square (close Porter Street to Market Square) on September 25, 2011 at 2:00 p.m. (***Anticipated action – move to refer to the City Manager with power***)

Councilor Smith moved to adopt the Consent Agenda. Seconded by Councilor Kennedy and voted.

X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from John Tinios, Popovers on the Square, requesting permission to extend outdoor seating through Veterans Day Weekend Sunday, November 13, 2011 at no additional cost to the Licensee

Councilor Smith moved to refer to the City Manager with power. Seconded by Councilor Lister.

Councilor Kennedy asked how many more days it would be if the extension is approved. Deputy City Manager Hayden stated approximately 30 days.

Councilor Kennedy said she is concerned with them not paying for the additional time. She said they need to pay for the time they take over the sidewalk.

Councilor Spear said he agrees with Councilor Kennedy and that the extension of time needs to be paid for.

Councilor Smith said he would accept that as a friendly amendment.

Councilor Lister said he would not like to grant that because it was agreed to be a pilot program.

Main motion passed to refer to the City Manager with power with the requirement that the Licensee pay pro-rata share (previous daily rate extended until the end of the term) to extend the outdoor seating through Veterans Day Weekend Sunday, November 13, 2011.

- B. Letter from Dexter Legg requesting a license for a new driveway at 4 Moebus Terrace

Councilor Smith moved to move to the Planning Board for report back. Seconded by Councilor Kennedy and voted.

XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

- 3. Establish Public Hearing Re: Supplemental Appropriation for Indoor Pool for FY12

Deputy City Manager Hayden said this would establish a public hearing on October 3, 2011 to act on the supplemental appropriation.

Councilor Smith moved to establish a public hearing for Monday, October 3, 2011 for the purpose of a supplemental appropriation of \$150,000.00 for the operation of the indoor pool for FY12. Seconded by Councilor Kennedy.

Councilor Dwyer stated that the agreement would be done at a later time, this is only the appropriation.

Motion passed.

4. Request to Accept Sewer Easement off of Spring Street

Deputy City Manager Hayden said this is to accept a sewer easement.

Councilor Smith moved to authorize the City Manager to accept a Sewer Easement from Frank W. Getman, Jr. and Ingrid C. Getman. Seconded by Assistant Mayor Novelline Clayburgh and voted.

Deputy City Manager Hayden reported that the Legislative Redistricting Subcommittee has scheduled a hearing on the redistricting issue and City Manager Bohenko has requested that City Attorney Sullivan and City Clerk Barnaby attend the hearing.

City Attorney Sullivan explained the process followed with the redistricting. He informed the Council that we found out about the hearing and will attend to ensure that the City Council action previously taken is not undone. He said if HB 656 goes through, the a Charter amendment process would need to take place for redistricting prior to the 2012 Presidential Primary and would ultimately cause the City to hold a special election at the cost of the City.

B. MAYOR FERRINI

1. Appointments to be Considered:
 - Joseph Couture – Reappointment to the Portsmouth Housing Endowment Fund Advisory Board
 - Brian Groth – Appointment as an Alternate to the Planning Board
 - John Weaver – Appointment to the Board of Library Trustees
 - Peter Vandermark – Appointment to the Conservation Commission
 - Jennifer Wilhelm – Appointment to the Conservation Commission

The City Council considered the appointments listed above and will vote on the appointments at the October 3, 2011 meeting.

2. Appointments to be Voted:
 - William Gladhill – Appointment as Regular member to the Planning Board (*currently serves as an Alternate member*)
 - John Crist – Appointment to the Board of Library Trustees

Councilor Smith moved to appoint William Gladhill as a Regular member to the Planning Board filling the unexpired term of Donald Coker until December 31, 2011 and to appoint John Crist to the Board of Library Trustees until October 1, 2014. Mr. Crist is filling the expired term of Betsy Shultis. Seconded by Councilor Lister and voted.

3. Resignation of James Horrigan from the Conservation Commission

Councilor Smith moved to accept Mr. Horrigan's resignation with regret. Seconded by Councilor Lister and voted.

Councilor Smith requested that a letter be sent to Mr. Horrigan thanking him for his years of service to the City.

Mayor Ferrini announced that there are many appointments that will expire before the end of the year and asked if people want to reapply to do so. He also stated if any one would like to file for appointment to a committee to send an application in to the City Clerk for his consideration.

C. COUNCILORS DWYER, SPEAR AND SMITH

1. Report Back Re: Transportation Governance Committee

Councilor Dwyer said this was a small committee of Councilors Spear, Smith, herself and staff members. She said the committee wanted to talk about transportation as a policy issue. Councilor Dwyer stated that the committee would combine the Traffic & Safety and Parking Committees and require an ordinance to do so.

Councilor Spear stated that the committee would look at public transportation options, access for bicycle and pedestrian travel, parking availability and access, control/management of traffic, travel routes through the City and complete streets (sustainable design). He said that a sunset date should be placed on the committee with a report back to the Council with a set of policy recommendations.

Councilor Spear said that the composition of the committee is suggested as follows:

- City Council (1-2 members)
- Citizen representatives with expertise in one or more aspects of transportation (3-4 members)
- Planning Board (1 member)
- Chair of Traffic & Safety Committee (1 member)
- Economic Development Commission (1 member)
- Rockingham Planning Commission (1 member)

Councilor Spear added that City staff members will participate in ex officio capacities on an as needed bases.

Councilor Dwyer stated that transportation is governed by regional and state agreements and addressed funding sources to overlook policy decisions.

Councilor Smith said transportation issues are coming forward more often. He said there are construction issues and transportation requires a regional approach. He stated that the Blue Ribbon Committee will bring everyone together for an overall view of transportation.

Councilor Smith moved to request Mayor Ferrini to establish a Blue Ribbon Committee on Transportation. Seconded by Councilor Lister.

Voted to instruct the City Attorney to draft an ordinance for first reading at the October 3, 2011 City Council meeting combining the functions of the Traffic & Safety Committee and Parking Committee. Seconded by Councilor Lister.

Councilor Spear asked Mayor Ferrini if he wanted to appoint the committee and have it extended after December 31st. He suggested that Mayor Ferrini look at the charge and sunset date to give the committee at least 3 months in the coming year. Mayor Ferrini said he has no issues appointing the committee and feels who ever the new mayor is will continue the committee.

Councilor Kennedy said the committee should include the horse and buggy and Pedit cabs.

Motion passed.

Councilor Smith moved to instruct the City Attorney to draft an ordinance for first reading at the October 3, 2011 City Council meeting combining the functions of the Traffic & Safety Committee and Parking Committee. Seconded by Councilor Dwyer.

Councilor Smith said that this will bring together the Traffic & Safety and Parking Committees. He said we need staff from the Police Department, Fire Department, Public Works Department and Parking Manager to be appointed as advisory.

Motion passed.

XII. MISCELLANEOUS/UNFINISHED BUSINESS

Councilor Kennedy announced that the Fishtival and Maritime Festival will take place this weekend at Prescott Park.

Councilor Dwyer reported on the location of plaques referenced in Portsmouth Herald Article of September 17th.

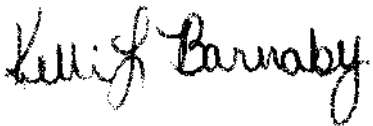
- Carl Anania Plaque – The Anania family approached the Recreation Board (meeting of June 23, 2010) and requested that the 30-year old wooden sign be replicated due to its poor condition and placed at the Alumni-Wentworth Field. The Recreation Board approved that request.
- Chrome Flagpole Plaque – This plaque, which is dedicated to the boys of Portsmouth High School who served in World War II, was removed from the flagpole by City staff prior to construction and is in the possession of the project manager.
- Connie Bean Plaque – This bronze plaque in honor of Connie Bean was removed from the small playground at the Middle School prior to construction and is in the possession of the Department of Public Works.

- Workman Plaque – This granite stone dedicated to John and Mary Workman was removed from the Wentworth School site prior to the start of construction and is in the possession of the Department of Public Works.
- George Washington Plaque – This bronze plaque embedded in stone in honor of George Washington from the Daughters of the American Revolution in 1932 is being protected on site during construction at the Middle School due to its significant weight.
- Water Tower Plaques – Councilor Dwyer reported if information is needed on water tower plaques it would be provided upon request.

Councilor Coviello requested that the Parking Committee consider the removal of parking meters located along 111 Maplewood Avenue. Mayor Ferrini said the matter will be forwarded to the Parking Committee for consideration.

XIII. ADJOURNMENT [AT 10:00PM OR EARLIER]

At 9:15 p.m., Councilor Smith moved to adjourn. Seconded by Councilor Lister and voted.



Kelli L. Barnaby, CMC/CNHMC
City Clerk